

POST 2006 INITIATIVE
Utility Service Obligations Working Group
Final Report

I. Executive Summary

The Utility Service Obligations Working Group (USOWG or Group) was assigned a series of questions regarding what, if any, retail load-serving obligations the electric utilities will retain in the post-transition period. The Group met on a regular basis and had enthusiastic discussions on the various questions posed to the Group by the Illinois Commerce Commission (ICC) in its Final Issues List and worked together to develop the answers in this report. In a developing market like that applicable to Illinois, utility service obligations can be critical to meeting the needs of customers in the marketplace. While the Group was not able to reach consensus on all the issues it was assigned, we hope the guidance provided in this report proves meaningful as we move toward 2007.

The USOWG examined the electric utilities' load-serving obligations in three (3) contexts: identifying the obligations as currently enumerated in the Public Utilities Act (PUA or Act); addressing whether these obligations should be continued once the transition period ends; and considering what amendments, if any, to the PUA would be necessary to change the utilities' obligations. While, in general, the USOWG was able to reach consensus on the first two items noted above, no consensus was reached as to amending the PUA.

To provide a frame of reference for the discussions and answers, the USOWG agreed on definitions of oft-used terms such as "standard offer service", "default service", and "Provider of Last Resort" (POLR) service. The USOWG also reached consensus on a summary of the current state of Illinois Law and the obligations it imposes on electric utilities. This summary can be found at the end of this Report in Appendix A. Using the PUA's delineations of customers, the USOWG reviewed the utilities' obligations for three (3) different groups of customers: residential and small commercial customers (under 15,000 kWh, as defined by the PUA); commercial and industrial customers whose service has not been declared competitive or abandoned; and commercial and industrial customers whose service has been declared competitive or abandoned.

In general, the USOWG agreed that the service obligations in the PUA and attendant rules regarding residential and small commercial (under 15,000 kWh) customers for the post-transition period should remain consistent with those in the transition period. The USOWG reached consensus that the Act should continue to impose a load serving obligation for the foreseeable future on the utilities. In the event that this obligation is placed with an entity other than the incumbent utility, the aforementioned entity should be regulated as a utility is regulated under the Act.

For commercial and industrial customers, the USOWG agreed that the Standard Offer Service (SOS) or POLR service options should not detract from the promotion of competitive markets. The USOWG reached consensus that a

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regulated product should continue to be offered to non-residential customers whose service has not been declared competitive or abandoned. However, the USOWG could not reach consensus as to whether SOS/POLR service options for commercial and industrial customers should promote competition. In addition, the USOWG could not reach consensus on what product(s) (other than delivery service and Real Time Pricing (RTP)¹ rates, as required by the PUA), if any, should be offered by incumbent utilities to commercial and industrial classes whose service has been declared competitive or abandoned. Similarly, the Group also did not reach consensus on whether or not a new POLR obligation for these customers must be created and assigned.

The USOWG also looked at certain pricing issues. The USOWG recognized that, where utilities have any obligation to offer power and energy service, utilities should offer services that strive for price stability for the power and energy component, at least for residential and small commercial customers and industrial customers who either have no alternative provider option or do not wish to take service from an alternative provider. The USOWG only contemplated price stability and did not consider other factors, such as retail competition or energy efficiency.

Looking to the future, there are a variety of unresolved issues that may require legislative changes. For example, the USOWG recognized that it may be possible for the default service obligations to reside with an entity other than the current incumbent utility, although the Group makes no recommendation as to the feasibility of any particular alternative scenario. While the USOWG did not reach consensus on whether the current PUA permits an entity (other than the current incumbent electric utility) to be statutorily assigned a default service obligation, the USOWG did conclude that such an alternative arrangement is possible if the PUA is amended.

In addition, the USOWG could not reach consensus as to whether or not the PUA should be changed to entitle commercial and industrial customers whose services have been declared competitive and/or abandoned to some type of POLR/Standard Offer Service (whether offered by the utility or a third party).

Given the lack of consensus on various key issues, the USOWG did not propose any legislative changes. However, this should be not construed to indicate either a lack of desire of some of the participants to seek legislative changes or that a workable framework beyond 2006 requires legislative change.

The various utility service obligations provided by the PUA act are important to Illinois consumers. We hope that this report is useful in understanding the various issues and that the dialogue begun in this process will continue as we head towards 2007.

¹ The Group did not reach consensus on whether or not RTP rates could be declared competitive.

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II. Group Name

Utility Service Obligations (USOWG)

III. Group Administration

A. Participants list

Conveners:

Katie Papadimitriu, Constellation NewEnergy
Mark N. Pera, Cook County State Attorney's Office

Participating stakeholders:

Ameren
Citizen's Utility Board (CUB)
City of Chicago
Commonwealth Edison
Cook County State Attorney's Office
Direct Energy
Environmental Law and Policy Center (ELPC)
Exelon Corporation
Giordano and Neilan (on behalf of Trizec Properties and Shorenstein Realty Services)
Illinois Attorney General
Illinois Commerce Commission (ICC) Staff
Illinois Department of Commerce and Economic Opportunity (DCEO)
Illinois Industrial Energy Consumers (IIEC)
Illinois Power
Mid American Energy Company (utility and retail)
Peoples Energy Services

B. List of meetings

5/13, 5/27, 6/3, 6/17, 6/28, 7/15, 7/26, 8/5, 8/12, 8/19

IV. Workshop Process

A. Description of the Group's approach

As stated above, the USOWG first undertook to define key terms and reach consensus on the current requirements in the PUA. Once this was completed, the USOWG proceeded to individually answer the questions that were assigned to the Group.

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- B. Subgroups and Conveners (if applicable)

NOT APPLICABLE

V. Report of Results

- A. Working Definitions

The group defined the term “**default service**” to be interim supply service that is meant to compensate the utility and provide the customer with a short timeframe to review and choose alternative supply options.

The group defined “**standard offer service**” to mean bundled service under the current PUA.

For the group’s definition of “**Provider of Last Resort**” (**POLR**), please see the paragraphs below, and the full text of a consensus document entitled “Definition(s) of Provider of Last Resort (“POLR”) services/products for use in the USOWG.” This consensus document has been attached to this Final Report as Appendix B.

While the term “POLR” is used extensively in the electric utility industry, the USOWG reached consensus that the term is inappropriately applied to describe services and products for small commercial and residential customers (as defined in the Act). The USOWG reached this conclusion because the PUA obligates utilities to serve residential and small commercial customers (as defined in the Act), regardless of competitive declaration. In particular, the USOWG notes that it has agreed that utilities should maintain their obligation to provide bundled service for the aforementioned customer classes. In some other jurisdictions, bundled service may be the POLR rate for residential and small commercial customers, although the USOWG reaffirms its objections to labeling bundled service a POLR rate for those customers.

With respect to commercial and industrial customers whose services are not declared competitive or abandoned, the PUA requires utilities to offer bundled service. The USOWG agreed that the utilities should maintain their obligation to provide bundled service for those customer classes. The USOWG could not reach consensus as to whether a POLR product should be offered or whether the mandatory utility bundled rate serves as a POLR product.

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With respect to commercial and industrial customers whose service has been declared competitive or abandoned, a POLR product is a service provided by a load serving entity to serve a customer that no other supplier will serve or can serve. Currently under Illinois law, no entity has this statutory obligation.

B. General Principles

As stated above, the USOWG reached consensus that all questions of service should be examined relative to three (3) categories of customers. The first category of customers consists of all residential customers and commercial customers whose yearly electricity usage is less than 15,000 kWh. The second category of customers consists of commercial and industrial (non-residential) customers whose service has not been declared competitive or abandoned. The third category of customers consists of commercial and industrial (non-residential) customers whose service has been declared competitive or abandoned and who do not qualify for the first category. The USOWG analyzed customers solely in these three categories in order to parallel the PUA's demarcations. The USOWG did not make any further distinctions based on size or type of customer. While noting the PUA's three-year "grandfather" period inherent in the competitive declaration process in which customers that take service can remain while shopping for an alternative retail electric supplier, the USOWG did not suggest any changes to that policy.

C. Answers to assigned Issues including where consensus could not be reached, the results of successful efforts to narrow issues and arrive at broadly accepted positions, and/or reports of remaining positions with significant support (*e.g.*, majority and minority reports).

80) What should be the nature of utilities' regulated load serving obligations after 2006? Should there continue to be any obligation for the utility to offer a regulated commodity or "POLR" product? If so, to which customer classes? And, if so, should it be offered on a bundled or unbundled basis?

A. The USOWG reached consensus that the current PUA requires electric utilities to provide a regulated (bundled) product to residential and small commercial customers (15,000 kWh or less per annum) and under the conditions described in the Act to all other non-residential customers, and that these obligations remain past the expiration of the mandatory transition period. Specifically, the USOWG recognized that the current PUA places certain load-serving obligations on electric utilities to serve all residential and small commercial customers as well as non-residential customers to the extent their service has not been declared competitive or abandoned.

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At least for residential and small commercial customers, the USOWG reached consensus that the Act should continue to impose a load serving obligation for the foreseeable future. The current PUA places this obligation on the incumbent utility and no utility is seeking to change this obligation. However, in the event that this obligation is placed on an entity other than the incumbent utility, that entity should be regulated as a utility under the PUA.

The USOWG reached consensus that a regulated product should continue to be offered to residential customers, small commercial customers and non-residential customers whose service has not been declared competitive or abandoned. The Group could not reach consensus as to which entity (the incumbent utility or a qualified third party) should provide the regulated product to these customer classes.

The USOWG could not reach consensus on what product(s) (other than delivery service and RTP rates, as required by the Act), if any, should be offered by incumbent utilities to commercial and industrial classes whose service has been declared competitive or abandoned. The USOWG could not reach consensus regarding whether electric utilities (or any other entity) were or should be statutorily required to offer any product to competitive or abandoned commercial and industrial customers other than delivery service and RTP rates, as required by the Act. The USOWG members who believed that a regulated product should be offered to the aforementioned customers could not agree on the type of product (regulated / bundled/ unbundled / market-based) that should be offered.

The USOWG reached consensus that, in restructured markets, the utility is generally the regulated provider of the generation commodity, although competitive auctions have been established in some jurisdictions to determine what entity should provide this service. If the utility is designated to provide the aforementioned service, it can do so via its own particular blend of assets, via competitive procurement, or some combination of operated and contracted sources (as specified by law).

81) What if the incumbent does not wish to retain the default service responsibility? Is an alternative arrangement feasible, given the incumbent's distribution monopoly and obligation to operate the system reliably (even if there are supply imbalances)?

A. For purposes of this working group, the USOWG defined "default service" to be interim supply service (ComEd's current Rider ISS is an example of this type of service), but does not include SOS or any other type or kind of similar service. The USOWG agreed that "default service" is meant to compensate the utility and provide the customer with a short

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timeframe to review and choose alternative supply options. The incumbent utility will retain the bundled service responsibility specified in the Act unless the law is amended. The Illinois incumbent electric utilities, as represented in the USOWG, indicated that they do not wish to change their default service responsibilities (that are statutorily mandated or optional) at this time. Other USOWG parties indicated that they would like to see the default service responsibility of the utilities clarified and affirmed. There are a variety of ways (i.e. product offerings) in which a utility can meet its responsibilities.

However, should a change in the PUA and attendant responsibilities be sought, the USOWG achieved consensus that an alternative arrangement may be feasible. It is possible for the default service obligations to reside with an entity other than the current incumbent utility, although this Group makes no recommendation as to the feasibility of any particular alternative scenario. While the USOWG reached no consensus on whether the current PUA permits an entity (other than the current incumbent electric utility) to be statutorily assigned a default service obligation, the USOWG did conclude that such an alternative arrangement is possible if the PUA is amended. The USOWG did not reach any consensus on the various options for the default service responsibility that may be available and their feasibility. This is not intended to preclude (or to specifically encourage) consideration of the potential for a third-party, who is willing and able to do so, to be statutorily obligated to take on all or part of the default service responsibility.

It is unclear what the language in Question 81's parenthetical meant; as a general matter, however, the issue of supply imbalances is better left to other working groups.

82) Is electric service to additional classes of customers likely to be competitive after 2006? Will the provision of electric power and energy continue to be competitive in some territories and not in others?

A. Please see the first paragraph of the USOWG consensus answer to Item No. 86, and the first three paragraphs of the USOWG consensus answer to Item No. 80. The USOWG could not reach further consensus on this question.

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83) Regulation of rates for tariffed electric service has traditionally been on a cost-of-service basis. Only the telecommunications markets, with mandated retail competition structures, have been deemed sufficiently competitive for price cap regulation. What criteria will be used to determine the sufficiency of competition?

A. The USOWG was unable to reach consensus on whether or not the criteria discussed in the PUA for determining if a service is competitive are sufficient. The USOWG was also unable to reach consensus as to what criteria will be used to determine the sufficiency of competition.

84) Should utilities offer services at long-term (a year or longer) fixed prices? Or should at least the power and energy prices vary with the market? If the latter, what is the appropriate time step for adjusting the price?

A. To the extent that utilities have any obligation to offer power and energy service, utilities should offer services that strive for price stability for the power and energy component, at least for residential and small commercial and industrial customers who either have no alternative provider option or do not wish to take service from an alternative provider. For these classes of customers, prices should not change frequently and consideration should be given to longer terms between price adjustments (for example: seasonal or annual pricing). Stability will be dependent upon the final procurement methodology and rate design. Parties could not reach consensus on whether or not such price stability should be provided to large commercial and industrial customers. This response should be construed to be fully consistent with the Rates WG response to Item No. 33A. This answer only contemplates price stability and did not include consideration of other factors such as retail competition or energy efficiency.

85) Should different POLR choices be offered to different classes of customers? [Should the POLR options for large customers have the effect of promoting competitive markets?]

A. The acronym “POLR” should not be used in reference to services provided to residential and small commercial customers (as defined in the Act). The USOWG recommends that definitions going forward should be consistent with the above statement. POLR should not be used as synonymous with SOS for the aforementioned customers.

The USOWG reached consensus that, under the current law, residential and smaller non-residential classes (15,000 kWh per annum or less) and larger non-residential customers whose service has not been declared

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competitive have different utility service options from large non-residential customers whose service has been declared competitive. It is also the consensus of the Group that utility service obligations to non-residential customers whose base rate service has been declared competitive are limited to RTP rates (as provided by the current PUA) and delivery service.

The USOWG could not reach consensus as to whether or not the current PUA should be changed to entitle commercial and industrial customers whose services have been declared competitive or abandoned to some type of POLR/Standard Offer Service (whether offered by the utility or a third party).

Standard offer or POLR service options for commercial and industrial customers should not detract from the promotion of competitive markets. The USOWG could not reach consensus as to whether SOS/POLR service options for C&I customers should promote competition.

Standard offer and/or POLR service offerings should provide reasonable cost service, ensure that the utility obtains proper cost recovery and compensation, including compensation for risk assumed, and avoid undue administrative complexity.

The USOWG recognized that there are various alternatives that could be implemented under the current Act.

Real time pricing may not be the only appropriate default/standard offer/POLR service if a customer fails to select an alternative option. A fixed price product (monthly/annual/multi year) may be appropriate as well.

There are different service options for customers for whom service has been declared competitive or abandoned as compared to other customers for whom there has been no competitive declaration or abandonment.

86) Should POLR offerings be uniform by customer class across the state? If utilities are in different situations with respect to RTOs and organized markets, should that affect the POLR choice?

A. Retail competition has evolved at differing paces for different customer classes in different portions of the State.

The USOWG did not reach consensus on whether POLR offerings should be uniform by customer class across the State.

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Utility offerings should reflect different utility situations related to Regional Transmission Organizations (RTOs) and organized markets to the extent that those situations affect the ability to provide such service.

87) If utilities offer a fixed price commodity POLR offering, how should the price be set? What role should the ICC have in overseeing the supply arrangements that the utility enters into to provide supply for such a service offering?

A. If utilities offer a fixed price commodity POLR offering, the price should be set based on the cost of the product being provided, including the full cost to provide power and energy.

The FERC has jurisdiction over wholesale power transactions.

The ICC has jurisdiction over retail rates.

Processes used to procure power and energy should be prudent, reasonable, fair, transparent and equitable, consistent with ICC authority and state law. The ICC should try to assure that the process produces reliable supply, encourages adequate development of future resources, and does not inhibit the development of wholesale markets.

A variety of processes can be used to prudently and reasonably procure power and energy.

88) If utilities offer a variable price commodity POLR offering, how should the price be set? What role should the ICC have in overseeing the supply arrangements that the utility enters into for such a service? In particular, under a variable POLR pricing policy, should the ICC set requirements for how much the utility can and should rely on the shorter term market to provide such resources?

A. [Also see above on ICC oversight]

The price of this product should reflect the cost of delivery service and any other prudent and reasonable costs associated with providing the service.

No specific numerical limitation should be placed on reliance of short-term markets for purposes of prudent and reasonable power and energy procurement.

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The USOWG did not intend to imply by this answer that variable price commodity service is the only means of providing POLR service, however defined.

89) What are the circumstances under which PPO must be offered subsequent to the end of the mandatory transition period? How should Sec. 16-110 provisions be implemented by the utilities that are required to offer PPO service after 2006?

A. The “Consensus Utility Service Obligations” chart summarizes PPO obligations under current law. This chart is attached to this Final Report as Appendix C.

D. Answers to additional issues or questions

No additional questions.

E. Miscellaneous Consensus Items or consensus Documents

See Attachments: “Consensus Utility Service Obligations” and “Consensus PUA Summary.” These documents are also available online at <http://www.icc.state.il.us/ec/ecPost.aspx> as “Revised Chart” and “PUA Summary,” respectively.

F. Specific recommendations to rule or legislative changes (if any)

None beyond any recommendations mentioned in the consensus items. The USOWG did not draft any legislative language, nor was consensus reached that legislative changes should or should not be required.

VI. New or Unanswered Questions

None.

VII. Other documents / attachments (please indicate the titles of each document)

A. Agendas for each meeting

B. Progress reports / minutes for each meeting

Please see attached agendas for 5/13, 5/27, 6/3, 6/17, 6/28, 7/15, 8/5, 8/12, and 8/19; please see attached reports for 5/13, 5/27, 6/3, 6/17, 6/28, 7/15, 7/26, 8/5, 8/12, and 8/19. All are available online at <http://www.icc.state.il.us/ec/ecPost.aspx>.

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- C. Summaries of joint sessions
- D. Listing of Presentations and Presenters (if applicable)

The Illinois Commerce Commission's May 3, 2004 symposium included several presentations on POLR/Default Service. From the Post 2006 May 3, 2004 presentations:

Default Service Policies to Benefit Residential Customers,
Barbara R. Alexander, Consumer Affairs Consultant

POLR/Default Service, Eric Robertson

The POLR Procurement Puzzle, Michael Schnitzer,
The NorthBridge Group, Inc.

See: <http://www.icc.state.il.us/ec/ecPost.aspx>

- E. Presentations
- F. Subgroup reports and materials (if applicable)

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